

Application No. 10/578,966
Amendment Dated: April 22, 2009
Reply to Office Action of: February 23, 2009

REMARKS/ARGUMENTS

Claims 1-10 and 13-20 are currently pending in this application. Claims 1 and 8 have been amended.

CLAIM REJECTIONS - 35 U.S.C. §102

Claims 1-3, 5-10, 13, 14, 16-18 and 20 stand rejected under 35 U.S.C. §120(b) as being anticipated by Froehlich (U.S. Patent No. 3,928,651). Reconsideration of this rejection is respectfully requested in view of the following comments.

Independent claim 1 is directed to a packaging casing for a sausage casing that comprises a knitted fabric or which contains the latter as a strengthening constituent and has at least one seam with a release thread. The release thread loses its strength under the influence of a treatment compatible with the packaging contents or as a result of a time lapse so that the packaging casing can be opened and removed.

According to independent claim 8, the only other independent claim in the case, a method is provided for opening a packaging casing for a sausage casing in which the packaging casing comprises a knitted fabric or contains the latter as a strengthening constituent and has at least one seam with a release thread. The method is characterized by waiting for the loss in strength of the release thread which takes place under the influence of a treatment compatible with the

packaging contents, or a result of lapse, and thereafter opening and removing the packaging casing.

The present invention relates to a packaging casing that comprises a knitted fabric that has at least one seam with a release thread. The release thread loses strength under the influence of a treatment compatible with the packing contents, or as a result of a time lapse. As a result, the present invention provides a way making it easier to open a packaging casing and remove the casing. As stated at page 2, lines 30-31 of the specification, the casing can be removed in a customary way after opening of the release thread seam.

The Froehlich patent relates to a method of treating meat products wherein the meat products are tied together with an edible binding string consisting of an edible collagen. As stated in column 1, lines 49-51 of the Froehlich patent, the string is edible and thus, does not need to be removed after cooking operation and prior to consumption.

The Examiner interprets the collagen filaments recited by Froehlich to be the equivalent of the release thread recited by Applicant in independent claims 1 and 8 and each of the filaments is interpreted to comprise a seam in the region of the stockinette these filaments hold together which is interpreted to be the equivalent to the at least one seam recited in the claim. The Examiner concludes that as such, Froehlich anticipates a casing comprising temperature sensitive

thread with a plurality of longitudinal seams that determines the shape of the meat (sausage) article packaged as recited in claims 1-3, 7-10, 13, 17 and 18.

Actually, the Froehlich patent is completely silent regarding the provision of a seam in a casing and the provision of a release thread that loses its strength so that the seam can be opened and the casing removed. The removing of the string of the casing disclosed in the Froehlich patent is contrary to the Froehlich invention, which is to provide a meat product with a string that is edible and does not need to be removed after a cooking operation and prior to consumption of the meat product. According to the Froehlich patent, there is nothing to be removed by a release thread and therefore there is no seam to be opened. It is the intent of the Froehlich invention that the string be edible and not need to be removed from the meat product. There is nothing to be opened and removed.

The claims are specific in setting forth that the release thread is used to open the packing casing that is then removed. This is a completely different from what is disclosed in the Froehlich reference and is a completely different method and packing casing structure than that disclosed by Froehlich in which the casing is consumed.

The claims are only anticipated if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference (See MPEP §2131). The Froehlich patent fails to meet this criterion. Each and every element of the claims is not found in the Froehlich reference. The Froehlich reference does not disclose a packaging casing that comprises a

knitted fabric with a seam, nor is there any disclosure of a release thread that loses strength under the influence of a treatment compatible with the packing contents or as a result of a time lapse so that the seam can be opened and the packing casing removed. It is submitted that there is no valid interpretation of the Froehlich reference can be used to meet the terms of the claims. The Froehlich reference is directed to a string of collagen material that is adapted to be consumed. The entire string (casing) of the Froehlich reference is consumable. Thus, even if a filament of the string is considered a seam, that seam cannot be opened as it is consumable and would disappear leaving nothing to be opened and removed. In the Froehlich structure, the entire casing loses its strength and there is nothing to be opened and removed.

In responding to Applicant's arguments, the Examiner states that the claims never recite that the packaging casing is removed. Both independent claims 1 and 8 have been amended to recite specifically that the packaging is removed. Therefore, the Froehlich reference, which discloses a string that is consumable along with the meat product and not removed, cannot be interpreted to cover the present invention in which the packaging casing has a seam that is opened and the packaging casing is removed.

Accordingly, for the reasons discussed above, claims 1-3, 5-10, 13, 14, 16-18 and 20 are not anticipated by, and are patentable over the Froehlich reference.

CLAIM REJECTIONS-35 U.S.C. §103

Claims 4 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schäfer (U.S. Patent No. 6,180,150) and Rueckert (U.S. Patent No. 2,698,800). The Examiner takes the position that Schäfer teaches the removal of a netting surrounding a sausage product by the dissolution of a cellulose adhesive disposed between the netting and the sausage casing. The netting is removed by pulling it off after cooking of the sausage or meat product. The Examiner goes on to admit that Schäfer is silent regarding a thermoplastic release thread.

The Examiner cites Rueckert for a teaching of a synthetic binding thread for use in shaping meat products that is dissolvable or disintegratable at cooking temperatures. The Examiner maintains that the string recited permits items such as a chuck roast to retain its desired shape, but under continued heating at cooking temperatures, dissolves and disintegrates so that no messy string needs to cut away from the meat.

The Examiner goes on to state that it would have been obvious to one of ordinary skill in the art to use a thread such as that recited by Rueckert for a seam or a plurality of threads in the netting recited by Schäfer in order to simplify the process of net removal. The disposition of such a thread in the invention of Schäfer would have produced the invention as claimed in claim 4 and 19 according to the Examiner.

Claim 4 is directed to a packaging casing that comprises a knitted fabric and has at least one seam. The seam is provided with a release thread that loses its strength under the influence of a treatment compatible with the packaging contents or as result of a time lapse with the release thread being a thermoplastic. The losing of the strength of the release thread permits the seam to be open and the packing casing to be removed.

Claim 19 adds to claim 14 that there are a plurality of longitudinal seams distributed over the circumference having the release thread.

Neither the Schäfer nor Rueckert patents disclose a knitted fabric, nor do such patents disclose a thread for the seam of a knitted fabric that loses its strength as a result of treatment, whereby the encasing can be opened and removed. The string of Rueckert is not a thread along the seam of a casing, but rather, a string tied around the meat product with the string disintegrating at normal cooking temperatures. In Rueckert, there is no necessity of removing the string after the meat has been processed. The meat may be carved directly without the necessity of handling it to remove the string. This is a completely different approach than that used in Schäfer in which a net is adhered to one side in an edible film by liquid soluble edible adhesive. The adhesive is dissolved and the net can be removed without destroying the film. Schäfer does not suggest or teach the provision of a net with a thread that loses its strength as a result of treatment to permit opening of the casing. It is submitted that one skilled in the art would not be led to combine the Rueckert and Schäfer disclosures as been

proposed by the Examiner since the basic approaches of the two disclosures are entirely different.

Even if the disclosures of the Rueckert and Schäfer patents could be combined, the resulting combination would not result in the claimed subject matter. Neither of the patents contains any teaching or disclosure of the provision of a seam that has a releasable thread. There is nothing to indicate that the net of Schäfer can contain a seam that must be opened to remove the net, let alone the use of a thread to close the seam. Rueckert merely discloses a consumable string. The string is not part of a seam. There is nothing in either of the two references to suggest a knitted fabric with a seam closed by a releasable thread of thermoplastic material that loses its strength as claimed. Accordingly, claim 4 and 14 are patentable over the proposed combination of references.

The Examiner, in rebutting Applicant's arguments asserts that the obvious combination of the two concepts of the Schäfer and Rueckert references would have resulted in a netting structure made of dissolvable thread. However, merely producing a netting structure of dissolvable thread would not result in the claimed invention. With the entire netting being of a dissolvable thread, there would be no seam to open and no casing to remove. It would all be dissolved. On the other hand, the present invention comprises a knitted fabric which does not dissolve and which has a seam with a releasable thread that does dissolve to permit the opening and removal knitted fabric. Thus even if the netting structure produced from the dissolvable thread can be interpreted to be comprised of all

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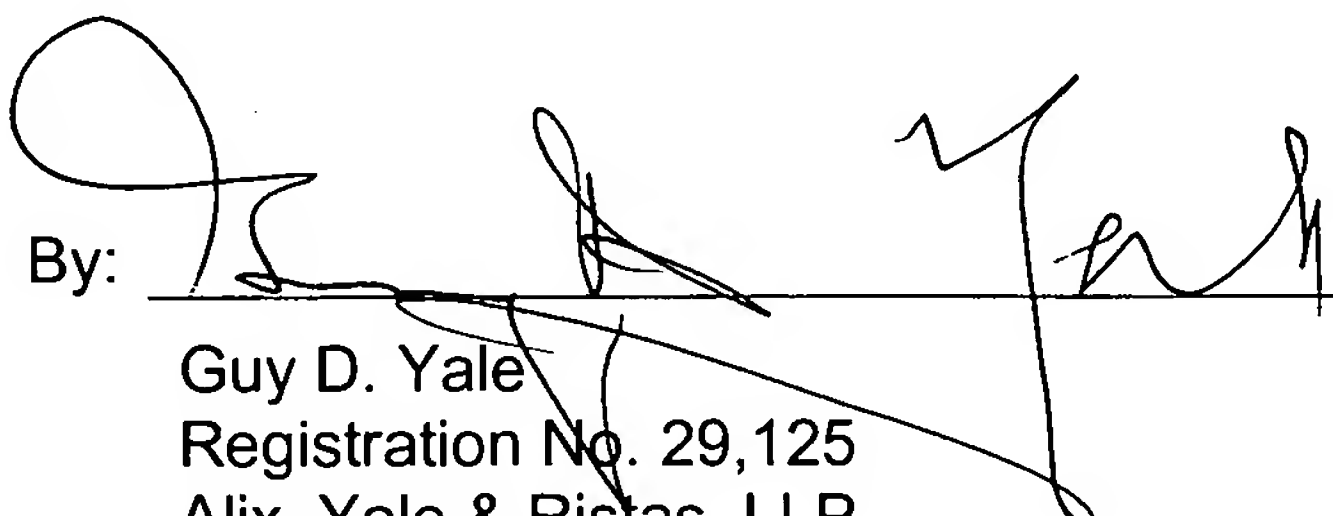
release threads, such interpretation would not serve to meet the terms of the claims. A structure under such an interpretation would still not have a seam and a release thread that opens the seam to permit removal of the casing. According, claims 4 and 19 are patentable over any possible combination of Schäfer and Rueckert

CONCLUSION

In view of the above amendments and remarks, it is respectfully submitted that all of the claims in the case are patentable over the cited art taken alone or in any possible combination. Favorable consideration of this application is respectfully requested.

Respectfully Submitted,

Gebhard Rudolf Huckfeldt

By: 
Guy D. Yale
Registration No. 29,125
Alix, Yale & Ristas, LLP
Attorney for Applicant

Date: April 22, 2009
750 Main Street, Suite 1400
Hartford, CT 06103-2721
(860) 527-9211
Our Ref: GMH/438/PC/US

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